

Assembly Bill No. 2853

CHAPTER 130

An act to amend Sections 1815 and 1816 of the Family Code, relating to family law.

[Approved by Governor August 21, 2006. Filed with
Secretary of State August 21, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2853, Salinas. Family law: counselors.

Existing law permits a superior court to establish the family conciliation court and to appoint supervising and associate counselors of conciliation, as specified. Existing law permits a superior court to appoint a child custody evaluator or mediator in a contested proceeding regarding child custody or visitation rights. Existing law requires those counselors, evaluators, and mediators to participate in programs of continuing instruction in domestic violence, as specified, that are established under the authority of the Administrative Office of the Courts.

This bill would revise and recast those provisions related to programs of continuing instruction for counselors, evaluators, investigators, and mediators, as specified. This bill would require those counselors, evaluators, investigators, and mediators to have 16 hours of additional advanced training in domestic violence issues and 4 hours of updated training annually, as approved by the Administrative Office of the Courts.

The people of the State of California do enact as follows:

SECTION 1. Section 1815 of the Family Code is amended to read:

1815. (a) A person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

(1) A master's degree in psychology, social work, marriage, family and child counseling, or other behavioral science substantially related to marriage and family interpersonal relationships.

(2) At least two years of experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the family conciliation court and with the ethnic population to be served.

(3) Knowledge of the court system of California and the procedures used in family law cases.

(4) Knowledge of other resources in the community that clients can be referred to for assistance.

(5) Knowledge of adult psychopathology and the psychology of families.

(6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.

(7) Training in domestic violence issues as described in Section 1816.

(b) The family conciliation court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required under subdivision (a).

(c) This section does not apply to any supervising counselor of conciliation who was in office on March 27, 1980.

SEC. 2. Section 1816 of the Family Code is amended to read:

1816. (a) For purposes of this section, the following definitions apply:

(1) “Eligible provider” means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.

(2) “Evaluator” means a supervising or associate counselor described in Section 1815, a mediator described in Section 3164, a court-connected or private child custody evaluator described in Section 3110.5, or a court-appointed investigator or evaluator as described in Section 3110 or Section 730 of the Evidence Code.

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

(1) The effects of domestic violence on children.

(2) The nature and extent of domestic violence.

(3) The social and family dynamics of domestic violence.

(4) Techniques for identifying and assisting families affected by domestic violence.

(5) Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the family being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

- (A) Maximizing safety for clients, evaluators, and court personnel.
- (B) Maintaining objectivity.
- (C) Providing and gathering balanced information from the parties and controlling for bias.
- (D) Providing separate sessions at separate times as described in Section 3113.
- (E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

- (A) Shelters for battered women.
- (B) Counseling, including drug and alcohol counseling.
- (C) Legal assistance.
- (D) Job training.
- (E) Parenting classes.
- (F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

- (A) Certified treatment programs described in Section 1203.097 of the Penal Code.
- (B) Drug and alcohol counseling.
- (C) Legal assistance.
- (D) Job training.
- (E) Parenting classes.

(5) The unique issues in a family and psychological assessment in a domestic violence case, including all of the following:

(A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential family dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.

(B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.

(C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.

(D) The assessment of family history based on the type, severity, and frequency of violence.

(E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.

(F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.

(G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.

(H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.

(I) The importance of and procedures for obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.

(J) Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against a family member.

(e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:

(1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.

(2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.

(f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:

(1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.

(2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.

(3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.

(4) Develop a procedure to verify that an evaluator completes the education and training program.

(5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

(g) (1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1) of this subdivision, an evaluator shall attach copies of his or her certificates of completion of the training

described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and shall seek to develop training programs that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.